IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2007

CORAM:

THE HONOURABLE MR.JUSTICE A.C.ARUMUGAPERUMAL ADITYAN

CRL.R.C.No.904 of 2004
and
Crl.M.P.No.6228 of 2004

Ponnusamy @ Ponnan .. Petitioner/accused

-vs-

The State by
The Inspector of Police
Saravanpatti Police Station
Coimbatore .. Respondent/complainant

This Revision is filed under Section 397 r/w 401 Cr.P.C. against the order passed in Crl.M.P.No.193/2004 in C.C.No.11/2004 dated 17.3.2004 on the file of the Additional District and Sessions Judge/ Special Court for Essential Commodities Act at Coimbatore.

For petitioner : Mr.N.Duraiswamy
for Mr.C.Deivasigamani

For respondent : Mr.V.R.Balasubramaniam
Additional Public Prosecutor

O R D E R

This revision has been preferred against the order passed in Crl.M.P.No.193 of 2004 in C.C.No.11 of 2004 on the file of Additional District and Sessions Judge/Special Court for Essential Commodities Act, Coimbatore.

2. Heard Mr.N.Duraiswamy learned counsel appearing for the appellant and Mr.V.R.Balasubramaniam,learned Additional Public Prosecutor for the State and considered their respective submissions.

3. Crl.M.P.No.193 of 2004 was filed under Section 310 of Cr.P.C. by the accused requesting the Presiding Officer to make a local inspection at the place of occurrence. The learned trial Judge, after going through the averments in the petition as well the counter filed by the State has come

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to a conclusion that there is no necessity for the Court to make any local inspection and accordingly dismissed the said petition which necessitated the accused to prefer this revision.

4. Section 310 of Cr.P.C. runs as follows:

> "Any Judge or Magistrate may, at any stage of any inquiry, trial or other proceeding, after due notice to the parties, visit and inspect any place in which an offence is alleged to have been committed, or any other place which it is in his opinion necessary to view for the purpose of properly appreciating the evidence given at such inquiry or trial, and shall without unnecessary delay record a memorandum of any relevant facts observed at such inspection."

5. A reading of the above said provision of law will make it clear that only if the Court feels it necessary to make any local inspection he can do so on his own accord or on application by the parties, after giving due notice to both of them. The learned trial Judge has categorically stated in his order that there is no necessity for the Court to make any local inspection in this case in which the accused has been charged under Section 8(c) r/w20(b) (ii)(b) of NDPS Act.

6. The learned Additional Public Prosecutor would represent that all the twelve witnesses have been examined before the trial Court and that the case has reached the stage under Section 313 of Cr.P.C. Further the learned Additional Public Prosecutor relying on a decision reported in Keisam Kumar Singh and another -v- State of Manipur(1986 Cri L.J.17: AIR 1985 SC 1664) and contended that normally a Court is not entitled to make a local inspection and even if such an inspection is made, it can never take the place of evidence or proof but is really meant for appreciating the position at the spot. Under such circumstances, I do not find any reason to interfere with the findings of the learned trial Judge in dismissing Crl.M.P.No.193 of 2004 in C.C.No.11 of 2004.

7. In fine, the revision is dismissed confirming the order passed in Crl.M.P.No.193 of 2004 in C.C.No.11 of 2004 on the file of the learned Additional District and Sessions Judge/Special Judge for Essential Commodities Act , Coimbatore. The trial Judge is directed to expedite the trial in C.C.No. 11 of 2004 and dispose of the same within one month from the date of receipt of a copy of this order.
Consequently,connected Crl.M.P.No.6228 of 2004 is also dismissed.

sg

Sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Additional District and Sessions Judge/Special Judge for Essential Commodities Act, Coimbatore

2. -do- the District and Sessions Judge, Coimbatore.

3. The Public Prosecutor, High Court, Madras

4. The Inspector of Police, Saravanpatti Police Station, Coimbatore.

5. The Section Officer, Criminal Section, High Court,Madras.

AKR(CO)
dcp/12.7.07

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